

HOUSE BILL No. 1109

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-11.

Synopsis: Early voting by voters with disabilities. Requires that all locations (other than the circuit court clerk's office) where a voter is entitled to cast in person an absentee ballot before election day must meet the same accessibility requirements that apply to a polling place for a precinct. Provides that a voter casting an absentee ballot before an absentee voter board in the office of the circuit court clerk or at a satellite office is entitled to receive assistance in casting a ballot if the voter is a voter with a disability or is unable to read or write English. Provides that a voter with a disability who votes an absentee ballot (other than a voter who casts an absentee ballot before an absentee voter board that visits the voter's residence or place of confinement) is entitled to vote on a direct record electronic voting system. Provides that a county election board may count absentee ballots cast at the clerk's office or at a satellite office on a direct record electronic voting system at a central location instead of sending those ballots to the precinct for counting. Requires a county election board that counts absentee ballots in this manner to adjust precinct vote totals to reflect the counting of these absentee ballots. Provides that a county that counts these absentee ballots in this fashion is not required to count other absentee ballots at a central location.

Effective: January 1, 2011.

Battles, Richardson, Barnes

January 5, 2010, read first time and referred to Committee on Elections and Apportionment.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

HOUSE BILL No. 1109

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-11-9-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JANUARY 1, 2011]: Sec. 1. This chapter applies to:

3 (1) each precinct; and ~~to~~

4 (2) absentee voting, **including the casting of an absentee ballot**
5 **before an absentee voter board:**

6 (A) **in the office of the:**

7 (i) circuit court clerk; or

8 (ii) board of elections and registration in a county
9 subject to IC 3-6-5.2 or IC 3-6-5.4; or

10 (B) **at a satellite office established under IC 3-11-10-26.3.**

11 SECTION 2. IC 3-11-9-6 IS ADDED TO THE INDIANA CODE
12 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
13 JANUARY 1, 2011]: Sec. 6. (a) **This section applies only to a voter**
14 **with a disability.**

15 (b) **This section does not apply to an absentee ballot cast by a**
16 **voter before an absentee voter board visiting the voter's place of**
17 **confinement or the voter's residence.**



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1 (c) A voter is entitled to vote on a direct record electronic voting
2 system that complies with IC 3-11-8.

3 SECTION 3. IC 3-11-10-12, AS AMENDED BY P.L.164-2006,
4 SECTION 106, IS AMENDED TO READ AS FOLLOWS
5 [EFFECTIVE JANUARY 1, 2011]: Sec. 12. (a) **Except as provided**
6 **in section 12.5 of this chapter**, each county election board shall have
7 all absentee ballots delivered to the precinct election boards at their
8 respective polls on election day.

9 (b) The absentee ballots shall be delivered during the hours that the
10 polls are open and in sufficient time to enable the precinct election
11 boards to vote the ballots during the time the polls are open.

12 (c) Along with the absentee ballots delivered to the precinct election
13 boards under subsection (a), each county election board shall provide
14 a list certified by the circuit court clerk. This list must state the name
15 of each voter subject to IC 3-7-33-4.5 who:

16 (1) filed the documentation required by IC 3-7-33-4.5 with the
17 county voter registration office after the printing of the certified
18 list under IC 3-7-29 or the poll list under IC 3-11-3; and

19 (2) as a result, is entitled to have the voter's absentee ballot
20 counted if the ballot otherwise complies with this title.

21 (d) If the county election board is notified not later than 3 p.m. on
22 election day by the county voter registration office that a voter subject
23 to IC 3-7-33-4.5 and not identified in the list certified under subsection
24 (c) has filed documentation with the office that complies with
25 IC 3-7-33-4.5, the county election board shall transmit a supplemental
26 certified list to the appropriate precinct election board. If the board
27 determines that the supplemental list may not be received before the
28 closing of the polls, the board shall:

29 (1) attempt to contact the precinct election board to inform the
30 board regarding the content of the supplemental list; and

31 (2) file a copy of the supplemental list for that precinct as part of
32 the permanent records of the board.

33 (e) This subsection applies to a special write-in absentee ballot
34 described in:

35 (1) 42 U.S.C. 1973ff for federal offices; and

36 (2) IC 3-11-4-12(a) for state offices.

37 If the county election board receives both a special write-in absentee
38 ballot and the regular absentee ballot described by IC 3-11-4-12 from
39 the same voter, the county election board shall reject the special
40 write-in ballot and deliver only the regular absentee ballot to the
41 precinct election board.

42 SECTION 4. IC 3-11-10-12.5 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JANUARY 1, 2011]: **Sec. 12.5. (a) This section applies to absentee ballots cast:**

(1) under section 26 or 26.3 of this chapter; and

(2) on a direct record electronic voting system.

(b) Notwithstanding section 12 of this chapter, a county election board is not required to deliver absentee ballots described in subsection (a) to the precincts for counting. However, the county election board shall deliver to each precinct a list of the names of voters who have cast absentee ballots described in subsection (a). The county election board shall deliver this list at the same time the county election board delivers other absentee ballots to the precinct. The judges shall mark the poll list to indicate that each voter on the list sent by the county election board has voted by absentee ballot. If a voter has already voted at the precinct, the judges shall note that fact on the list sent by the county election board and return the list to the county election board with the precinct's other election materials. The county election board shall delete the absentee votes of a voter described in subsection (a) whose name has been noted by the judges as having voted at the precinct.

(c) A county election board acting under this section:

(1) may count all absentee ballots described in subsection (a) at a central location; and

(2) shall adjust the vote totals for each precinct based on the count of absentee ballots under subdivision (1).

(d) This section does not require a county election board to count absentee ballots not described in subsection (a) at a central location under this section or IC 3-11.5.

SECTION 5. IC 3-11-10-26, AS AMENDED BY P.L.164-2006, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: **Sec. 26. (a)** As an alternative to voting by mail, a voter is entitled to cast an absentee ballot before an absentee voter board:

(1) in the office of the circuit court clerk (or board of elections and registration in a county subject to IC 3-6-5.2); or

(2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must:

(1) sign an application on the form prescribed by the commission under IC 3-11-4-5.1; and

(2) provide proof of identification;

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before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than twenty-nine (29) days nor later than noon on the day before election day.

(d) An absent uniformed services voter who is eligible to vote by absentee ballot in the circuit court clerk's office under IC 3-7-36-14 may vote before the board not earlier than twenty-nine (29) days before the election and not later than noon on election day. If a voter described by this subsection wishes to cast an absentee ballot during the period beginning at noon on the day before election day and ending at noon on election day, the county election board or absentee voter board may receive and process the ballot at a location designated by resolution of the county election board.

(e) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

(f) Notwithstanding subsection (e), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

(g) As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

- (1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;
- (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and
- (3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(h) As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

(i) If:

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(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

the voter shall be permitted to cast an absentee ballot and the voter's absentee ballot shall be treated as a provisional ballot.

(j) A voter casting an absentee ballot under this section is entitled to cast the voter's ballot in accordance with IC 3-11-9.

SECTION 6. IC 3-11-10-26.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 26.3. (a) A county election board may adopt a resolution to authorize the circuit court clerk to establish satellite offices in the county where voters may cast absentee ballots before an absentee voter board.

(b) To be adopted under this section, a resolution must be adopted by the unanimous vote of the board's entire membership.

(c) A resolution adopted under this section must do the following:

(1) State the locations of the satellite offices.

(2) State the hours at which absentee voting may occur at the satellite offices.

(d) The resolution may contain other provisions the board considers useful.

(e) If a resolution is adopted under this section, the procedure for casting an absentee ballot at a satellite office must, except as provided in this section, be substantially the same as the procedure for casting an absentee ballot in the office of the circuit court clerk.

(f) A voter casting an absentee ballot under this section is entitled to cast the voter's ballot in accordance with IC 3-11-9.

(g) A satellite office established by a circuit court clerk under this section must comply with the polling place accessibility requirements of IC 3-11-8.

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